

STATE OF DELAWARE

PUBLIC EMPLOYMENT RELATIONS BOARD

IN THE MATTER OF:

STATE OF DELAWARE,	:	
	:	Representation Petition
and	:	
	:	<u>No. 15-06-1003</u>
FRATERNAL ORDER OF POLICE (STATE LODGE AND	:	
LODGES 3, 10, & 11), GENERAL TEAMSTERS LOCAL	:	UNIT 9 DETERMINATION
326, AND AMERICAN FEDERATION OF STATE,	:	
LOCAL AND MUNICIPAL EMPLOYEES, COUNCIL 81	:	
AND LOCAL 3384.	:	

APPEARANCES

Monica Gonzalez-Gillespie, SLEP/HRM/OMB, for the State
Lt. Fred M. Calhoun, President, Delaware State Fraternal Order of Police
Joseph Smith, President, General Teamsters Local 326
Lance Geren, Esq., AFSCME Council 81

State Merit Unit 9 Definition and Determination

1. The State of Delaware is a public employer within the meaning of §1302(p) of the Public Employment Relations Act (PERA), 19 Del.C. Chapter 13 (1994).

2. The Fraternal Order of Police (FOP) is an employee organization within the meaning of 19 Del.C. §1302(i). Through its affiliated Lodge 3, the FOP is the exclusive bargaining representative of certain employees of the State of Delaware Department of Natural Resources and Environmental Control (DNREC) as defined in DOL Case 161 within the meaning of 19 Del.C. §1302(j).

3. Through its affiliated Lodge 10, the FOP is the exclusive bargaining representative of certain employees of the State of Delaware Department Correction (DOC), Division of Community Correction, as defined in DOL Case 165 within the

meaning of 19 Del.C. §1302(j).

4. Through its affiliated Lodge 11, the FOP is the exclusive bargaining representative of certain employees of the State of Delaware Department of Safety and Homeland Security (DSHS), Capitol Police, as defined in DOL Case 153 within the meaning of 19 Del.C. §1302(j).

5. General Teamsters Local 326 (Teamsters) is an employee organization within the meaning of 19 Del.C. §1302(i). It is the exclusive bargaining representative of certain employees of the State of Delaware Department of Safety and Homeland Security (DSHS), Division of Alcohol and Tobacco Enforcement (DATE) as defined in DOL Case 91 within the meaning of 19 Del.C. §1302(j).

6. The American Federation of State, County and Municipal Employees, AFL-CIO (“AFSCME”), Council 81 is an employee organization within the meaning of 19 Del.C. §1302(i). AFSCME, through its affiliated Local 3384 is the exclusive bargaining representative of certain employees of the Delaware Department of Services for Children, Youth and Families (DSCYF), Division of Youth Rehabilitative Services as defined in DOL Case 168 within the meaning of 19 Del.C. §1302(j).

7. Section 1311A of the Delaware Public Employment Relations Act, 19 Del.C. Chapter 13 (“PERA”), identifies twelve statewide bargaining units and requires the Public Employment Relations Board to:

... determine the proper assignment of job classifications to bargaining units and the bargaining unit status of individual employees and shall provide for certified bargaining representatives to combine bargaining units or portions of bargaining units of employees they represent within the bargaining units defined in this section based upon the job classifications of the employees represented.

8. On or about June 17, 2015, the State Fraternal Order of Police filed a petition for Unit Determination for State Merit Unit 9, which is statutorily defined to

include, “Law-enforcement and investigative agents which is composed of agency police officers, natural resource and environmental control officers, parole and probation officers of the Department of Correction, alcoholic beverage control officers, investigators and similar occupations.” 19 Del.C. §1311A(b)(9).

9. At PERB’s request, on or about July 2, 2015, the State provided a list of all State merit classifications which it believed fall within the statutory Unit 9 definition. The list also indicated whether the listed classifications were currently represented for purposes of collective bargaining, and if so, identified the certified exclusive bargaining representative.

10. The State’s list included classifications with positions in the Department of Correction, Department of Natural Resources and Environmental Control, Department of Services for Children, Youth and Families, the Department of Safety and Homeland Security, and the Delaware Justice of the Peace Courts (JPC).

11. The Unit 9 list included unrepresented positions (Constables) in the Justice of the Peace Courts (JPC).

12. The State’s list and information concerning representation status was provided to representatives of the State FOP, Teamsters Local 326 and AFSCME Council 81.

13. Questions and concerns about the inclusion of certain positions were raised and subsequently addressed through correspondence.

12. The list of State Merit Unit 9 positions and classifications was refined and clarified through this process. Without objection from any party, it was agreed Unit 9 includes the following classifications:

<u>Job Code</u>	<u>Position Description</u>
MBBA01	Alcohol & Tobacco Enforcement Agent I

MBBA02	Alcohol & Tobacco Enforcement Agent II
MBBA03	Alcohol & Tobacco Enforcement Agent III
MBBB02	Capitol Police Officer I
MBBB03	Capitol Police Officer II
MBBB04	Capitol Police Officer III
MBBB05	Sergeant, Capitol Police
MBBD02	DNREC Enforcement Officer I
MBBD03	DNREC Enforcement Officer II
MBBD04	DNREC Enforcement Officer III
MBBD05	DNREC Enforcement Officer IV
MBBD06	DNREC Enforcement Officer V
MBBE01	Constable I
MBBE02	Constable II
MBEA01	Probation & Parole Officer I
MBEA02	Probation & Parole Officer II
MBEA03	Senior Probation & Parole Officer
MBEB01	Senior Probation & Parole Officer

13. Based upon the list provided by the State, this unit currently includes 412 positions of which:

- 371 are currently represented by the FOP and its affiliated Lodges;
- 13 are currently represented by Teamsters Local 326;
- 8 are currently represented by AFSCME Local 3384; and
- 20 are currently unrepresented.

WHEREFORE, the State Merit Unit Determination petition filed by the Fraternal Order of Police is resolved and this matter is closed. Unit 9, statutorily defined as, “Law-enforcement and investigative agents” including “agency police officers, natural resource and environmental control officers, parole and probation officers of the Department of Correction, alcoholic beverage control officers, investigators and similar

occupations” (19 Del.C. §1311A(b)(9)) is stipulated to include the following state merit classifications:

Alcohol & Tobacco Enforcement Agents, I, II, and III

Capitol Police Officers I, II, and III

Capitol Police Sergeants

DNREC Enforcement Officers I, II, III, IV, and V

Constables I and II

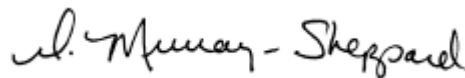
Probation and Parole Officers I and II

Senior Probation and Parole Officers

Section 1311A(g) states: “Notwithstanding anything in this section to the contrary, a bargaining unit created pursuant to the provisions of subsection (b) of this section, shall not bargain for compensation as defined herein until all of the eligible employees in such unit are represented by an exclusive bargaining representative.” Because all of the classifications in the stipulated unit are not currently represented for purposes of collective bargaining, Unit 9 is not eligible to bargain pursuant to 19 Del.C. §1311A at this time.

IT IS SO ORDERED.

DATE: August 24, 2015



DEBORAH L. MURRAY-SHEPPARD
Executive Director
Del. Public Employment Relations Bd.